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5 UNITED STATES DISTRICT COURT  
6 WESTERN DISTRICT OF WASHINGTON  
7 AT TACOMA

8 RANDALL C. MAPES, a married man,

9 Plaintiff,

v.

10 UNUM GROUP, a foreign corporation,  
11 UNUM LIFE INSURANCE  
12 COMPANY OF AMERICA, a foreign  
13 corporation; and PROVIDENT LIFE  
14 AND ACCIDENT INSURANCE  
15 COMPANY, a foreign corporation,

Defendants.

CASE NO. C18-5724 BHS

ORDER REQUESTING RESPONSE

15 This matter comes before the Court on Plaintiff Randall C. Mapes's ("Mapes")  
16 motion for reconsideration on issue of attorney's fees and costs. Dkt. 57. On February 20,  
17 2020, the Court denied both Mapes' and Defendants Unum Group, Unum Life Insurance  
18 Company of America, and Provident Life & Accident Insurance Company's ("Unum")  
19 motions for judgment on the record, Dkts. 28, 32, and remanded to Unum. Dkt. 54. On  
20 March 3, 2020, Mapes filed the instant motion for reconsideration on the issue of  
21 attorney's fees and costs. Dkt. 57. Mapes argues that the Court's remand to Unum with  
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1 instructions represents “some degree of success on the merits” under authorities  
2 interpreting *Hardt v. Reliance Std. Life Ins. Co.*, 560 U.S. 242 (2010) and requests  
3 permission to submit a motion for the amount of his attorney’s fees and costs. As the  
4 Court did not previously consider these authorities, neither party having brought them to  
5 the Court’s attention, the Court requests a response from Unum.

6 Under Ninth Circuit precedent, after finding a claimant satisfies the *Hardt*  
7 threshold, the district court “must consider” the five factors articulated in *Hummell v. S.E.*  
8 *Rykoff & Co.*, 643, F.2d 446, 453 (9th Cir. 1980) in determining whether to award fees.  
9 *Simonia v. Glendale Nissan/Infiniti Disability Plan*, 608 F.3d 1118, 1119 (9th Cir. 2010).  
10 The Court understands that Mapes likely intends to address this issue in a motion for fees  
11 if the Court grants the motion for reconsideration. However, as some discussion of this  
12 issue may assist the Court in deciding the motion for reconsideration, Unum may choose  
13 to address it in response and the Court will also permit Mapes to file a reply.

14 Any response shall be filed no later than March 20, 2020. Any reply shall be filed  
15 no later than March 25, 2020. The Clerk shall renote Mapes’s motion for consideration  
16 on the Court’s March 25, 2020 calendar.

17 Dated this 9th day of March, 2020.

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20 BENJAMIN H. SETTLE  
21 United States District Judge  
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